



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

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JUDGE SAYS NO TO \$25 MILLION IN ATTORNEY FEES AND ORDERS \$1 DOLLAR TO BE PAID BY CITY

San Diego, CA: One dollar in attorney fees is what the attorney who filed a class action pension lawsuit against the City of San Diego will receive. Attorney Michael Conger had sought \$25 million. The decision, which is final and binding, was released today by retired Federal Magistrate Judge Harry R. McCue.

According to Judge McCue's written opinion, "It is not in the public interest to compel the City of San Diego to spend hundreds of thousands of dollars to defend itself against obviously barred claims and then be ordered to pay millions of dollars in Attorney Fees to its adversary."

City Attorney Michael Aguirre stated the Judge further found that the City is "struggling" to restore the funding of the pension system, something that it was already committed to doing without this lawsuit and that "[e]very dollar is precious."

The *McGuigan v. City of San Diego* case was a class action lawsuit alleging the City's underfunding of the City employee pension system. Michael Conger is the plaintiff's counsel for the McGuigan class members who filed the case on June 28, 2005.

The City recently settled the case by agreeing to pay \$173 million into the San Diego City Employees' Retirement System over five years to raise the system's funding level. The decision regarding the awarding of attorney's fees was submitted to binding arbitration with Judge McCue.

Judge McCue's written opinion found that the lawsuit, which duplicated an earlier pension lawsuit settled by the City, was "not in the public interest." Rather, the case "illustrates the ease with which public money can be squandered in the name of the public interest."

"It is refreshing to see a judge master a difficult case and stand up for the rights of the taxpayers against abusive class action litigation," said outside counsel for the City, Kristine Wilkes.

The City was represented at the February 7, 2007, arbitration trial by City Attorney Michael Aguirre, Executive Assistant City Attorney Don McGrath, and outside counsel Kristine Wilkes of Latham & Watkins law firm.

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